

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Reverend BECK, Ph.D.,

Civil File No. 06-1075 (JNE/SRN)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Judge RICHARD H. KYLE, Magistrate
Judge FRANKLIN L. NOEL, KARI JO
FERGUSON, STEPHEN C. RATHKE,
MARK W. HARDY, MARY R. VASALY,
Warden JESSICA SYMMES, KATHY
REID, Dr. STEPHEN CRAANE, Warden
ROBERT FENEIS, and JANNETTE
WILSON,

Defendants.

Plaintiff, a Minnesota state prison inmate, commenced this action by filing a civil complaint, and an application to proceed in forma pauperis, ("IFP"). (Docket Nos. 1 and 2.) Magistrate Judge Jeanne J. Graham previously determined that Plaintiff could not be granted IFP status for all of his claims in this matter, because he is subject to the "three-strikes rule" set forth at 28 U.S.C. § 1915(g). Magistrate Judge Graham found that only Plaintiff's claims against Defendant Dr. Stephen Craane were possibly exempt from the § 1915(g) three-strikes rule, because only those claims arguably fall within the rule's exception for claims involving an alleged "imminent danger of serious physical injury."

Therefore, by order dated March 27, 2006, (Docket No. 7), Plaintiff was informed that he could either (a) pay the full filing fee for this action, and pursue all of his claims against all named Defendants, or (b) pay an initial partial filing fee pursuant to 28 U.S.C. § 1915(b)(1), and pursue only his claims against Defendant Dr. Stephen Craane. Plaintiff

was clearly advised that if he did not pay the full filing fee prescribed by 28 U.S.C. § 1914(a), he would be deemed to have abandoned his claims against all Defendants other than Dr. Stephen Craane.

Plaintiff subsequently paid an initial partial filing fee pursuant to § 1915(b)(1), but he did not tender the full filing fee prescribed by § 1914(a). Therefore, in accordance with Magistrate Judge Graham's prior order in this matter, the Court now finds that Plaintiff has effectively abandoned his claims against all Defendants other than Dr. Stephen Craane. The Court will accordingly recommend that this action be summarily dismissed without prejudice as to all Defendants except Dr. Stephen Craane. See Fed. R. Civ. P. 41(b) (actions may be dismissed for failure to comply with court orders); Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

RECOMMENDATION

Based upon the above, and upon all the files, records, and proceedings herein,

IT IS RECOMMENDED that:

This action be SUMMARILY DISMISSED WITHOUT PREJUDICE as to Defendants Judge Richard H. Kyle, Magistrate Judge Franklin L. Noel, Kari Jo Ferguson, Stephen C. Rathke, Mark W. Hardy, Mary R. Vasaly, Warden Jessica Symmes, Kathy Reid, Warden Robert Feneis, and Jannette Wilson.

Dated: October 15, 2007

s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States Magistrate Judge

Under D. Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **October 29, 2007** a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Circuit Court of Appeals.